

Applicants: William C. Olson and Paul J. Maddon
Serial No.: 09/594,983
Filed June 15, 2000
Page 7

REMARKS

Claims 98-104 and 118-134 are pending in the subject application. By this Amendment, applicant have amended claim 101, 103, 104, 119-122, 125-128, and 131-134 to more clearly define the claimed subject matter, and have added new claims 135-139. Support for amended claim 101 may be found *inter alia*, in the specification at page 19, line 36 to page 20, line 1. Support for amended claims 103, 104, 119-122, 125-128, and 131-134 may be found at page 22, line 16 to page 23, line 5. Support for new claims 135-139 may be found at page 22, lines 28-30. Applicants maintain that no issue of new matter is raised by these amendments or by the addition of new claims 135-139. Upon entry of this Amendment, claims 98-104 and 118-134, as amended and new claims 135-139 will be pending and under examination.

Rejection Under 35 U.S.C. §112, Second Paragraph:

The Examiner rejected claim 101 under 35 U.S.C. §112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In response, and without conceding the correctness of the Examiner's ground of rejection, applicants note that claim 101 has been amended hereinabove to recite a "monoclonal antibody or a fragment of such antibody comprising complementarity determining regions (CDRs)". Accordingly, applicants maintain that amended claim 101 complies with the requirements of 35 U.S.C. §112, second paragraph, and respectfully request that the Examiner reconsider and withdraw this ground of rejection.

Provisional Double Patenting Rejection:

The Examiner provisionally rejected claims 98-104 and 118-134 on the

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Serial No.: 09/594,983
Filed June 15, 2000
Page 8

ground of nonstatutory obviousness-type double patenting as allegedly unpatentable over claims 1-5, 18, 31, and 74 of copending Application No. 10/371,483. Specifically, the Examiner stated that the instant claims 98-104 and 118-134 are drawn to an isolated monoclonal antibody designated PA14 or a fragment or derivative with the same CDRs. The Examiner further stated that the copending allowed claims of U.S. Serial No. 10/371,483 are also drawn to a an antibody with the same CDRs, and therefore the instant claims 98-104 and 118-134 are anticipated by allowed claims 1-5, 18, 31, and 74 of copending Application No. 10/371,483.

In response, but without conceding the correctness of the Examiner's grounds of rejection, applicants submit attached hereto as **Exhibit 1** a Terminal Disclaimer relative to U.S. Serial No. 10/371,483, now allowed. In accordance with 37 C.F.R. §1.321(c), a sixty-five dollars (\$65.00) fee as set forth in 37 C.F.R. §1.20(d) is required, and a check for this amount is enclosed. Accordingly, applicants maintain that the Examiner's ground for rejection under the nonstatutory obviousness-type double patenting rejections are now moot, and request that this ground of rejection be withdrawn.

Conclusion

In view of the remarks made hereinabove, applicants respectfully request that the Examiner reconsider and withdraw the grounds of rejection set forth in the August 7, 2006 Office Action, and request allowance of claims 98-104 and 118-134 as amended and pending in the subject application.

If a telephone interview would be of assistance in advancing prosecution of the subject application, applicants' undersigned attorney invites the Examiner to telephone him at the number provided below.


Applicants: William C. Olson and Paul J. Maddon
Serial No.: 09/594,983
Filed June 15, 2000
Page 9

No fee, other than the \$65.00 fee for filing a Terminal Disclaimer, is deemed necessary in connection with the filing of this Amendment. However, if any additional fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 03-3125.

Respectfully submitted,



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I hereby certify that this correspondence is being deposited this date with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	
 John P. White Reg. No. 28,678	11/3/06 Date